

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a
Washington corporation,

Plaintiff,

v.

RICHARD ARRIAGA, an individual d/b/a
TWILIGHT COMPUTERS; and ELBA
ACOSTA, an individual d/b/a SKYLIGHT
COMPUTERS,

Defendants.

and

ELBA ACOSTA,

Third-Party Plaintiff,

v.

PATRICIA ALBA, an individual, and the
marital community composed of IRVING
ARRIAGA and PATRICIA ALBA,
husband & wife,

Third-Party Defendants.

No. 08-0902 RSM

ORDER AND JUDGMENT RE PLAINTIFF
MICROSOFT'S MOTION FOR DEFAULT
JUDGMENT AND PERMANENT
INJUNCTION AGAINST DEFENDANT
RICHARD ARRIAGA d/b/a TWILIGHT
COMPUTERS

Having considered Plaintiff Microsoft Corporation's ("Microsoft") Motion for Default
Judgment and Permanent Injunction against Richard Arriaga, an individual, d/b/a Twilight
Computers, the Declaration of Randy Mullinax in support thereof, the Declaration of Amanda J.

1 Beane in support thereof, the Summonses, Complaint, and proofs of service on file herein, and
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3 all the relevant papers and pleadings on file with the Court in this matter,
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5 **THE COURT ORDERS AS FOLLOWS:**
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7 Microsoft's Motion for Default Judgment and Permanent Injunction Against Defendant
8 Richard Arriaga, an individual, d/b/a Twilight Computers ("Defendant") is **GRANTED**.
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10 1. Defendant is liable to Microsoft under federal law, 17 U.S.C. § 501, *et seq.*, for
11 the willful infringement of the following copyrighted works:
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- 13 (1) 1,200,236 ("MICROSOFT");
- 14 (2) 1,256,083 ("MICROSOFT");
- 15 (3) 1,872,264 ("WINDOWS");
- 16 (4) 2,744,843 (COLORED FLAG DESIGN);
- 17 (5) 1,475,795 ("POWERPOINT");
- 18 (6) 1,741,086 ("MICROSOFT ACCESS");
- 19 (7) 2,188,125 ("OUTLOOK"); and
- 20 (8) 2,999,281 (COLOR FOUR SQUARE LOGO);

21 2. Defendant is liable to Microsoft for willful trademark infringement under federal
22 law, 15 U.S.C. §§ 1114, *et seq.* and 15 U.S.C. §§ 1125, *et seq.*, resulting from his use in
23 commerce of Microsoft's trade dress and use and imitation of the following Trademarks and/or
24 Service Mark Registration Numbers:
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- 26 (1) TX 5-407-055 ("Windows XP Professional");
- 27 (2) TX 6-504-552 ("Office 2007");
- 28 (3) TX 6-524-395 ("Microsoft Access 2007");
- 29 (4) TX 6-524-399 ("Microsoft Excel 2007");
- 30 (5) TX 6-524-393 ("Microsoft Outlook 2007");
- 31 (6) TX 6-524-389 ("Microsoft PowerPoint 2007");

- (7) TX 6-524-398 ("Microsoft Word 2007");
- (8) TX 6-524-388 ("Publisher 2007");
- (9) TX 6-524-392 ("Infopath 2007");
- (10) TX 6-524-390 ("Groove 2007"); and
- (11) TX 6-524-396 ("OneNote 2007");

3. Defendant's use of Microsoft's marks has resulted in the placement in commerce of items that are strikingly similar to genuine Microsoft, or Microsoft-licensed, items which are or were likely to cause confusion, mistake or deception in the market as to the source of those items.

4. Defendant is liable to Microsoft for unfair competition under federal law, 15 U.S.C. § 1125, and under the common law of the State of Washington.

5. The likelihood of confusion that existed in this instance by virtue of Defendant's distribution of counterfeit and infringing Microsoft software in interstate commerce is an appropriate predicate upon which to base permanent injunctive relief against the unauthorized reproduction, replication and/or distribution by Defendant of any unauthorized, illegal, and/or counterfeit Microsoft items. The Court therefore contemporaneously issues a separate permanent injunction against Defendant.

6. Microsoft is awarded \$700,000 in statutory damages against Defendant, jointly and severally, pursuant to 15 U.S.C. § 1117(c)(1) of the Copyright Act. This amount represents \$100,000 for seven of the eight trademarks that Defendant violated.

7. Microsoft is awarded \$330,000 in statutory damages against Defendant, jointly and severally, pursuant to 17 U.S.C. § 504(c)(1) of the Lanham Act. This amount represents \$30,000 for each of the copyrights that Defendant violated.

8. Microsoft is awarded \$3,736.80 in attorneys' fees against Defendant jointly and severally.

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2 9. The total judgment against Defendant is \$1,033,736.80.

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4 10. This judgment shall accrue interest, compounded annually, pursuant to 28 U.S.C.
5 § 1961.
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10 DATED this _14_ day of July, 2009.
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18 RICARDO S. MARTINEZ
19 UNITED STATES DISTRICT JUDGE
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25 Presented by:
26

27 s/ Amanda J. Beane, WSBA No. 33070

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